

MINUTES of the Regular Meeting of
the City Council of the City of Rye held in
City Hall on March 15, 2000 at 8:00 P.M.

PRESENT:

STEVEN OTIS, Mayor
CAROLYN CUNNINGHAM
ROBERTA DOWNING
ROBERT H. HUTCHINGS
ROSAMOND LARR
DOUGLAS MCKEAN
ARTHUR STAMPLEMAN
Councilmen

ABSENT:

1. Pledge of Allegiance

Mayor Otis invited the audience to join the council in the Pledge of Allegiance.

2. Roll Call

Mayor Otis called the meeting to order; a quorum was present to conduct official city business.

3. Residents may be heard who have matters to discuss that do not appear on the agenda

Mr. Michael Donahue, executor of his mother's estate, explained that when Mrs. Donahue purchased the property located at 78 Island Drive, there was a pre-existing certificate of occupancy. When the house was on the market for sale, he was informed that there was neither a building permit nor a certificate of occupancy for an addition which was completed prior to his mother's purchasing the house. Subsequently, he was informed by the Building Department that a \$1,000 fee would be levied on the property because the addition was done without the required permits. Mr. Donahue respectfully requested that the City Council waive this fee since his mother was not responsible for this renovation.

Interim City Manager Christopher J. Bradbury said that he and the Building Inspector thoroughly researched the Building Department's records for plans, a building permit, and a certificate of occupancy for the addition. There were no records on file. He noted that the certificate of occupancy referenced by Mr. Donahue was for a single family residence and did not indicate that the building was in compliance with the city code.

The council discussed the following:

- The distinction between a certificate of occupancy for a new residence and a certificate of occupancy linked to a building permit.
- The rationale for the \$1,000 fee.
- The 1997 amnesty program regarding the failure to obtain a building permit for construction completed prior to 1985.

Mayor Otis and the council were sympathetic to Mr. Donahue's situation and said he will review how this fee is applied. However, the council was not in a position to waive the fee.

4. Report of County Legislator/Chair George S. Latimer

County Legislator/Chair George Latimer reported on the following:

A. County-wide revaluation (reval) effort

Legislator Latimer advised the council that Westchester County supports and encourages the reval effort in Westchester County. He emphasized that:

- a \$5 million dollar fund is available from the County to support this initiative as long as a minimum of 80% of the Westchester cities and towns participate,
- legislation will not be drafted until the County ascertains if there will be 80% participation,
- the assessment process and benefits of a county-wide reval, and
- possible cost sharing for revaluation among the state, county, and municipalities.

B. Midland Avenue

Legislator Latimer informed the council that he will support any decision the council makes regarding ownership of Midland Avenue.

C. **County-owned Properties**

Legislator Latimer informed the council there are vacant county-owned parcels in the City of Rye which are available for transfer if the City of Rye is interested.

D. **Playland**

1. Westchester County has announced that Playland Amusement Park will introduce a new ride, *Double Shot*, a vertical ride with an 80 foot tower. Mr. Latimer said he lobbied against this specific ride, however, it will probably be installed this summer.

2. A gate will be installed at the Sanford Street passageway to Playland by April or May. It will be locked during Playland's open season.

E. **Cablevision**

Legislator Latimer opposes the realignment of channels that Cablevision has mandated. He suggested that the council consider passing a resolution objecting to this change.

F. **Community Development Block Grant (CDBG) for Gagliardo Park**

The City of Rye is appealing the decision of the County of Westchester Department of Planning regarding the Phase II Application for a Community Development Block Grant for Gagliardo Park. Mr. Stephen Meyers, chairman of the Rye Recreation Commission, has requested Mr. Latimer's assistance in this appeal.

Legislator Latimer concluded his report by announcing that he will be available for his constituents on Friday, March 24, 2000 in the Mayor's Conference Room in City Hall.

Mayor Otis expressed his appreciation to Legislator Latimer for his informative report and for his interest in the City of Rye.

5. **Discussion of the city assuming ownership of Midland Avenue from the County of Westchester**

Mayor Otis acknowledged the February 28, 2000 memorandum from City Engineer George J. Mottarella and the March 10, 2000 memorandum from Interim City Manager Christopher J. Bradbury regarding the city assuming ownership of Midland Avenue from the County of Westchester.

A council discussion ensued on:

- The possibility of city assuming ownership of Midland Avenue,

- the pros and cons of such ownership,
- negotiating with the county to assume the costs of pending capital projects before the city would take ownership, and
- the possible need to resurface more frequently because of heavy traffic.

Mayor Otis deferred action until the April 5, 2000 council meeting. This would allow time to ask the staff to estimate the increase in traffic flow on Midland Avenue, how it affects the longevity of the road and the cost associated with more frequent resurfacing.

6. Discussion of Cable TV public access channel realignment

Mayor Otis referred to his March 10, 2000 memo and attached materials from Cablevision about the proposed realignment of channels 14, 15, and 16.

Councilman Hutchings expressed the feeling that Cablevision was arbitrary in changing public access stations 14, 15, and 16 to channels 70, 71, and 72. He said it will be more profitable for Cablevision and is a ploy to place MSG, Cablevision's own commercial channel, into a more visible channel.

As an alternative, Mayor Otis suggested that Westchester communities keep the same placement of 14, 15, and 16 for their public access stations because it would be less disruptive and would allow municipalities to retain their original channels.

Councilman Hutchings expressed his appreciation to Mayor Otis, Mr. John Gregg, chair of the Rye Cable Television Committee and Mr. James Kenny, coordinator of Rye Cable Television, for their assistance in drafting the proposed resolution.

Councilman McKean amended the fourth "Whereas" by adding "adjacent to Channel 13, a long standing designated public television channel".

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to adopt the following resolution as amended:

WHEREAS, Cablevision of Westchester, Inc. is the duly authorized holder of a cable television franchise authorizing the use of the City of Rye's public streets, roads and right-of-ways for the operation and maintenance of a cable television system and authorizing Franchisee to serve the City of Rye with cable television services; and

WHEREAS, an integral part of the franchise agreement between the City of Rye and Cablevision is conditioned and contingent upon the Franchisee's continual compliance with the franchise agreement's requirement and the City of Rye local law on Telecommunications; and

WHEREAS, the City of Rye has a long standing history of providing Public, Educational and Government television (PEG) services to the citizens of Rye; and

WHEREAS, the City of Rye has relied in good faith on Cablevision's provision of PEG channels and their placement at channels 14, 15, and 16 adjacent to Channel 13, a long standing designated public television channel; and

WHEREAS, Cablevision has stated that PEG channels are an important part of their basic service, and that Cablevision sees their relationship with the City of Rye as a partnership, and

WHEREAS, the present placement of Rye's PEG channels has served as an audience building advantage for Rye PEG performers and producers; and

WHEREAS, the proposed reassignment of Rye's three PEG channels from 14, 15, and 16 to channels 71, 72, and 73 in an isolated and unpopular viewing area with virtually no surrounding channels of inherent interest; and

WHEREAS, this decision to reassign channels was made without prior notice, consultation, input or consideration of their "partner"; and

WHEREAS, the channel realignment will result in a confusion to subscribers and a decline in audience for Rye PEG channels; and

WHEREAS, the citizens of Rye have invested substantial human resources to develop an audience for Channels 14, 15, and 16; and

WHEREAS, the City of Rye considers Channels 14, 15, and 16 as a strong and major Rye City communication medium; and

WHEREAS, the cavalier treatment to be given to Rye cable subscribers who do not have television sets capable of receiving Channels 71, 72, and 73 underscores the lack of planning by Cablevision; and

WHEREAS, the rationale provided by Cablevision for the proposed change is weak and more likely a function of Cablevision's desire to locate their own commercial channels (i.e., "MSG Network") in a stronger revenue producing position by transferring the MSG Network from channel 64 to Rye's channel 15; and

WHEREAS, less disruptive alternatives are available to Cablevision that can provide the uniformity they seek in Westchester by placing all PEG channels in the county on channels 14, 15, and 16 matching the current location for at least 20 municipalities in Westchester; and

WHEREAS, Cablevision's actions have unilaterally reduced the value of the franchise agreement to municipalities by seizing these preferred channel locations; now, therefore be it

RESOLVED, that the City Council of the City of Rye strongly opposes the unilateral realignment to Rye's PEG access channels and require that this poorly planned and arbitrary decision be reversed; and be it further

RESOLVED, that the City of Rye will pursue all avenues of addressing this matter, including legal action by the Corporation Counsel, if necessary; and be it further

RESOLVED, that the City Clerk is hereby authorized to forward a certified copy of this resolution to the governing authorities of other Westchester County communities serviced by Cablevision; members of Congress representing areas of Westchester County, and members of the State Assembly and Senate representing areas of Westchester County and the Federal Communications Commission.

Mayor Otis expressed his appreciation to Councilman Hutchings for his diligent work.

7. Discussion of the city's participation in a county-wide revaluation effort

Mayor Otis referenced both his and City Assessor Noreen Whitty's memorandum dated March 7, 2000. The memorandums were accompanied by an information fact sheet dated February 10, 2000 from Westchester Municipal Officials Association (WMOA) regarding the county-wide revaluation procedure.

Mayor Otis informed the council that Westchester Municipal Officials Association has circulated a draft resolution supporting county-wide revaluation. He said that this method differs from the approach that was vetoed by Governor Pataki in 1996. The Mayor stated that that approach, endorsed by most Westchester municipalities, included a classification system and some phase-in protections which were included to protect homeowners. He suggested incorporating these two issues in the city's resolution.

Council discussion focused on:

- the cost of reevaluation per parcel,
- sharing this cost among the state, county, and municipalities,

- intermunicipal agreement,
- inclusion of a maintenance provision to guarantee a reval every six years, and
- amending the proposed resolution to include the classification system and the phase-in protections.

Councilman Stampleman made a motion, seconded by Councilwoman Cunningham and unanimously carried, to adopt the following resolution as amended:

WHEREAS, it is in the best interests of all municipalities, school districts, and the county government of Westchester County to participate in a collective revaluation project to establish the most equitable assessments/tax rolls for all property owners and to ensure tax fairness for all; and

WHEREAS, the City of Rye would like to see issues of classification, phase-in protection, and state and county contribution towards revaluation addressed through this process in order to protect local taxpayers, now therefore, be it

RESOLVED, that the City of Rye hereby agrees to participate in a county-wide revaluation as long as a minimum of 80 percent of the 25 cities and towns upon which the County bases its tax apportionment agree to do so at the same time on a shared-cost basis as part of a joint intermunicipal agreement.

8. Scheduling of a public hearing on a proposed local law extending the moratorium related to the use of the city's right-of-ways

Mayor Otis acknowledged Corporation Counsel J. Henry Neale's March 9, 2000 memorandum on extending the moratorium related to the private use of public right-of-ways.

Councilman Stampleman made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the following resolution:

WHEREAS, a proposed local law entitled "A Local Law extending the moratorium related to the use of the city's right-of-way", has heretofore been introduced at this meeting and placed before the Mayor and each Councilman, and

WHEREAS, it is now desired to call a public hearing on such proposed local law, now, therefore, be it

RESOLVED, by the Council of the City of Rye as follows:

Section 1. Pursuant to Section 20 of the Municipal Home Rule law and the Charter of the City of Rye, New York, a public hearing will be held by the Council of said City on April 5, 2000 at 8:00 P.M. at City Hall, Boston Post Road, in said City, for the purpose of affording interested persons an opportunity to be heard concerning such resolution.

**PUBLIC NOTICE
CITY OF RYE**

Notice of Public Hearing on a proposed local law extending the moratorium related to the use of the city's right-of-way

Notice is hereby given that a public hearing will be held by the City Council of the City of Rye on the 5th day of April, 2000 at 8:00 P.M. at City Hall, Boston Post Road, in said City, at which interested persons will be afforded an opportunity to be heard concerning the proposed local law extending the moratorium related to the use of the city's right-of-way.

Copies of said local law may be obtained from the office of the City Clerk.

Dated: City Clerk

9. Authorization for the Interim City Manager to enter into an agreement with Calgi Construction Company for a fee of \$303,060 to serve as Construction Manager for the renovation of the firehouses

The Mayor acknowledged Interim City Manager Bradbury's March 10, 2000 memorandum and the proposal letter from Calgi Construction Company, Inc. for renovation of the firehouses.

After reviewing other proposals for construction manager for this project, Interim City Manager Bradbury recommended Calgi Construction Company, Inc., to serve in this capacity. He said the company's performance is excellent as evidenced in similar work being performed at Whitby Castle. He informed the council that he negotiated with Calgi Construction Company, Inc. for the best possible cost for the renovation of the fire stations.

Councilman McKean noted that the city will still spend over the budgeted amount for construction management.

Councilman McKean made a motion, seconded by Councilman Stampleman, to adopt the following resolution:

RESOLVED, that the Interim City Manager be and is hereby authorized to enter into an agreement with Calgi Construction Company for a fixed fee of \$303,060 to serve as Construction Manager for the renovation of the firehouses.

AYES: Mayor Otis, Councilmen Cunningham, Downing
Hutchings, Larr, McKean, and Stampleman

NAYS: None

ABSENT: None

The resolution passed.

10. Authorization for the City Engineer to file an application to the Westchester County Health Department for installation of two backflow prevention devices being provided on the Whitby Castle project

Mayor Otis acknowledged the March 7, 2000 letter from Mr. Werner E. Tietjen addressed to City Engineer George Mottarella regarding the installation of two backflow prevention devices being provided on the Whitby Castle project.

Councilwoman Cunningham made a motion, seconded by Councilman Hutchings and unanimously carried, to adopt the following resolution:

RESOLVED, that the City Engineer be and is hereby authorized to file an application to the Westchester County Health Department for installation of two backflow prevention devices being provided on the Whitby Castle project.

11. Authorization for the Interim City Manager to enter into an Intermunicipal Agreement for Selective Enforcement for Traffic Safety Grant

Mayor Otis acknowledged the February 25, 2000 memorandum from the Project Director of the Westchester County Traffic Safety Board, Barbara Peters DeMeo, regarding an Intermunicipal Agreement for Selective Enforcement for Traffic Safety Grant.

Councilman McKean made a motion, seconded by Councilman Hutchings and unanimously carried, to adopt the following resolution:

RESOLVED, that the Interim City Manager be and is hereby authorized to enter into an Intermunicipal Agreement for Selective Enforcement for Traffic Safety Grant.

12. Approval of supplemental appropriation of \$8,000.00 from the Contingent Account to the General Fund City Council budget to cover the cost of property appraisal fees

Mayor Otis acknowledged the March 10, 2000 memorandum from City Comptroller Michael A. Genito regarding approval of a supplemental appropriation of \$8,000.00 from the Contingent Account to the General Fund City Council budget to cover the cost of property appraisal fees.

The appraisal fees would cover the following properties:

- 18 Belmont Avenue,
- The Friends Meeting House on Milton Rd. and the adjacent property,
- Rye Nursery, and
- Manhattan Cable Property.

Councilwoman Cunningham made a motion, seconded by Councilman Hutchings, to adopt the following resolution:

RESOLVED, that the City Comptroller be and is hereby authorized to transfer eight thousand dollars (\$8,000.00) from the General Fund Contingent Account to the General Fund City Council budget to cover the cost of property appraisal fees.

ROLL CALL:

AYES: Mayor Otis, Councilmen Cunningham, Downing, Larr,
McKean, and Stampleman

NAYS: None

ABSENT: None

The resolution passed.

Councilwoman Downing left the meeting at 10:05 P.M. because of illness.

13. Approval of the City of Rye Police Department General Order #121.2, Awards and Recognition

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to approve of the City of Rye Police Department General Order #121.2, Awards and Recognition.

14. Designation of the official polling places of the City of Rye for all elections and authorization for the City Clerk to request a waiver of accessibility requirements for Milton School Gymnasium which does not meet the accessibility standards for the disabled

Mayor Otis acknowledged the March 1, 2000 memorandum from City Clerk Alice K. Conrad regarding official polling places for elections.

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to adopt the following resolution:

RESOLVED, that the Council of the City of Rye hereby designates the following locations as the official polling places for all the elections:

District No.	1	-	The Osborn, in the Strathcona Building
District No.	2	-	The Osborn, in the Strathcona Building
District No.	3	-	City Hall, Council Chambers
District No.	4	-	City Hall, Council Chambers
District No.	5	-	Milton School Gymnasium, Hewlett Avenue
District No.	6	-	Milton Firehouse, Milton Road
District No.	7	-	Damiano Recreation Center, Midland Avenue
District No.	8	-	Damiano Recreation Center, Midland Avenue
District No.	9	-	Disbrow Park, Public Works Building, (Old Garage) Oakland Beach Avenue
District No.	10	-	Rye Middle School Gymnasium
District No.	11	-	City Hall, Council Chambers
District No.	12	-	Osborn School Gymnasium, Osborn Road
District No.	13	-	Disbrow Park, Public Works Building, (Old Garage) Oakland Beach Avenue
District No.	14	-	Milton School Gymnasium, Hewlett Avenue

No action was taken by the council on the waiver of accessibility at the Milton School.

15. Consideration of request of the Milton School P.T.O. to have Hewlett Avenue posted as a one-way street from 10:00 A.M. to 3:00 P.M. on Saturday, March 18, 2000 in conjunction with the Milton School Fair

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to approve the request of the Milton School P.T.O. to have Hewlett Avenue posted as a one-way street from 10:00 A.M. to 3:00 P.M. on Saturday, March 18, 2000 in conjunction with the Milton School Fair.

16. Consideration of request of Rye Little League to use city streets for their annual parade on Saturday, April 8, 2000

Councilwoman Cunningham made a motion, seconded by Councilwoman Larr and unanimously carried, to approve the request of Rye Little League to use city streets for their annual parade on Saturday, April 8, 2000.

17. Request from American Legion Rye Post #128 to hold the Memorial Day Ceremony at 9:45 A.M. on Monday, May 29, 2000 on the Village Green

Councilman Hutchings made a motion, seconded by Councilman McKean and unanimously carried, to approve the request of the American Legion Post #128 to have a Memorial Day Ceremony at 9:45 A.M. on May 29, 2000 on the Village Green.

18. One Appointment to the Conservation Commission/Advisory Council to fill the term ending January 1, 2002, by the Mayor with Council Approval

No council action taken on this agenda item.

19. Draft unapproved minutes of the regular meeting of the City Council held March 1, 2000

Councilman Hutchings made a motion, seconded by Councilwoman Cunningham and unanimously carried, to approve the minutes of the regular meeting of the City Council held March 1, 2000, as amended.

20. Miscellaneous communications and reports

A. Councilman Stampleman announced that the Rye Recreation Master Plan, prepared by the Rye Recreation Commission, will be forwarded to the council next Friday and will be formally presented at the April 5, 2000 council meeting. He encouraged the council to participate in the facilities tour scheduled for March 25th, beginning at 9:00 A.M. at the McDonald Building. He said this tour will be a good opportunity to understand some issues identified in the Master Plan. Councilman Stampleman also said there may be consideration of a bond issue.

Mayor Otis said that the focus of the Master Plan is goals and objectives; financing is a separate issue. He said bonding is not the only way to finance projects. There are other avenues which can be explored. For now, he said, it is essential to see how the Master Plan identified needs and to review recommendations.

Councilman Stampleman suggested that the council adopt a resolution to encourage County Legislator George Latimer to ask Westchester County to support the Community Block Development Grant for Gagliardo Park.

The consensus of the council was to encourage County Legislator Latimer to address this issue with Westchester County.

B. Councilwoman Larr submitted a copy of the annual budget for Darien, Connecticut to the Interim City Manager for his information.

C. Councilwoman Cunningham reported that the Zoning Board of Appeals is currently considering applications requesting a fence variance. This is the first opportunity for the Board to rule on applications using the new fence ordinance. Two applications were adjourned in order for the Board to inspect the subject property again and to review the application further.

D. Councilwoman Cunningham reported that she, Councilman McKean, and Corporation Counsel Henry Neale, Jr. are participating in a Community Leadership Alliance Training Program sponsored by Pace University School of Law.

E. Councilman McKean suggested changing the date for the Rye Nature Center's presentation from April 19, 2000 (which falls within the Spring vacation) to the May council meeting because many residents will be on vacation.

Interim City Manager Bradbury will discuss this change in date with City Naturalist Chantal Detlefs.

21. Old Business

A. Councilwoman Cunningham informed the Council that she will make a presentation on the taxi voucher system for senior citizens to the owners of Rye taxicab companies on March 23, 2000. She expressed the hope that the companies would participate in this program.

Councilman McKean apprised the council that current signage for taxis at the railroad station is not clearly designated and is unattractive.

Councilwoman Cunningham noted there aren't any benches near the taxis stands.

B. In response to Councilwoman Larr's query, Interim City Manager Bradbury said the Request for Proposals for the joint traffic study for the City of Rye and the School District have been mailed. The deadline for submission of proposals is early April. Data collection for the traffic study will be undertaken in April and May before school closes for the summer.

C. Several questions posed by Councilman Stampleman were clarified as follows:

- Mayor Otis is the council liaison for the Traffic and Transportation Committee.
- Administrative Assistant Jeffrey Stonehill will report on the condition of the Midland Avenue striping.
- Interim City Manager Bradbury will forward a list of available County properties in the City of Rye to the council.
- The joint meeting of the City and the Rye City School District is scheduled for April 8, 2000.
- The meeting with Mr. Richard Bennett, of Bennett Associates, to review resumes of candidates for the City Manager's position will be scheduled early in April.

22. New Business

A. Councilman Hutchings expressed concern that voting machines have malfunctioned at the Milton School polling place for the past two years. He requested a report on exploring alternatives to the present voting machines to correct this problem.

B. Mayor Otis announced that he has designated Councilman McKean as chairman of the Parking Working Group.

C. Councilman McKean announced that the next meeting of the Parking Working Group is scheduled for Monday, March 20, 2000. It was announced that this is an open meeting and the public is invited to attend.

23. Adjournment

There being no further business to discuss, Councilwoman Cunningham made a motion, seconded by Councilman Hutchings and unanimously carried, to adjourn the meeting at 10:40 P.M.

Respectfully submitted,

Alice K. Conrad
City Clerk